

SECTION 7.0 SPECIAL RESIDENTIAL REGULATIONS

7.1 AFFORDABLE HOUSING ORDINANCE

7.1.1 Applicability. This Affordable Housing Ordinance, Section 7.1, and all of the provisions contained herein, shall apply to all projects where a special permit and/or variance and/or site plan approval is sought from any City of Quincy board or body to construct a residential building project of ten (10) units or more. For the purposes of this Affordable Housing Ordinance, such projects shall be referred to as "Inclusionary Projects". The provisions of this Section 7.1 shall apply to all Inclusionary Projects in all zoning districts of the City.

1. The provisions of Section 7.1 shall not apply to Urban Renewal Uses.

7.1.2 Requirements. A developer of an Inclusionary Project shall, concurrent with filing any application for any special permit, variance or site plan approval within the City of Quincy, file with the Affordable Housing Trust Committee ("AHTC") a description of the Inclusionary Project and the special permit(s) and/or variances(s) and/or site plan approval(s) sought. Filing such descriptions with the Department of Planning and Community Development shall be considered filing with the AHTC. Within thirty-five (35) days of receipt of such descriptions by the Department of Planning and Community Development and/or the AHTC, the AHTC shall provide, to any special permit granting or variance granting or site plan approval granting authority (hereinafter, the "granting authority") considering the Inclusionary Project, the AHTC's recommendations for conditions on the Inclusionary Project. The granting authority receiving such recommendations shall give great weight to the recommendations of the AHTC in determining what conditions shall be applied to the Inclusionary Project and any relevant special permits or variances or site plan approval.

1. If the Affordable Housing Trust Committee fails to provide a recommendation to the granting authority within thirty-five (35) days of the AHTC receiving an Inclusionary Project description, such granting authority may proceed in acting upon the special permits and/or variances and/or site plan approval sought without the recommendation of the AHTC. In all cases, the granting authority shall retain the ultimate authority to determine what, if any, conditions shall be placed on an Inclusionary Project pursuant to this Affordable Housing Ordinance.

7.1.3 Affordable Housing Trust Committee. The AHTC may consider any plans, presentations, or requests of developers in determining what conditions should be applied to Inclusionary Projects. However, the AHTC shall not be bound by such plans, presentations, or requests. Although the AHTC may recommend any conditions that it deems appropriate based on the description of each individual Inclusionary Project, the AHTC shall consider the following guidelines in making its recommendations for conditions on Inclusionary Projects:

1. Projects that consist in total of less than ten dwelling units shall not be considered Inclusionary Projects and no contribution to City affordable housing shall be required.

2. *Rental Inclusionary Projects.* Any Inclusionary Project that creates or is designed to

create residential rental units shall be designated a "Rental Inclusionary Project" under this Section 7.1. Although the AHTC shall use its judgment to recommend appropriate conditions in each individual case, when a developer presents a Rental Inclusionary Project to the AHTC, the AHTC will give particular consideration to the following conditions. The developer may be required to:

- a. create or cause to be created affordable housing units for occupancy exclusively by eligible households; or
- b. donate land to be used exclusively for the development of affordable housing units; or
- c. undertake such other reasonable creation of affordable housing units or donation in lieu of such creation as may be recommended by the AHTC.

3. When the AHTC chooses to proceed under Section 7.1.3.2.a, the developer will generally be required to provide as affordable housing units ten percent of all of the housing units contained in the Rental Inclusionary Project.

4. When the AHTC chooses to proceed under Section 7.1.3.2.b, the developer will generally donate land of at least an equal appraised value to the value of ten percent of all of the housing units contained in the Rental Inclusionary Project.

5. When the AHTC chooses to proceed under Section 7.1.3.2.c, the developer will generally be required to create affordable housing units, or donate cash in lieu of such creation, at a cost to the developer no greater than an amount equal to fifty percent of the total construction costs of ten percent of the total units developed. Such a contribution or donation shall be determined and administered as described below.

6. *For-Sale Inclusionary Projects.* Any Inclusionary Project that creates or is designed to create residential units for owner occupancy shall be designated a "For-Sale Inclusionary Project" under this Section 7.1.3. Although the AHTC shall use its judgment to recommend appropriate conditions in each individual case, when a developer presents a For-Sale Inclusionary Project to the AHTC, the AHTC will give particular consideration to the following condition:

- a. The developer of a For-Sale Inclusionary Project may be required to contribute to the Affordable Housing Trust Fund, in cash, an amount equal to fifty percent of the total construction costs of ten percent of the total units developed. This contribution shall be designated the "Fee in Lieu Of Dwelling Units".
- b. When a developer is required to comply with subsection a, above, as part of the issuance of a variance or a special permit, the developer shall deliver the Fee In Lieu Of Dwelling Units to the Chair of the City of Quincy AHTC or his/her designee to be added to the Affordable Housing Trust Fund. The Fee In Lieu Of Dwelling Units shall be determined as follows:
- c. As the basis for determining the amount of the Fee In Lieu Of Dwelling Units, and for determining the building construction cost data, the Department of Inspectional Services shall use the methods used at that time by the Department of Inspectional Services to calculate building permit fees. The Department of Inspectional Services shall calculate fifty percent of the total construction cost of

ten percent of the total units constructed in the Inclusionary Project by using total construction cost data appropriate for the relevant type of unit construction. The resulting dollar value, rounded to whole dollars, shall be the Fee in Lieu Of Dwelling Units. The payment of the Fee In Lieu Of Dwelling Units shall be made in accordance with the completion schedule contained in Section G of this ordinance. All building permits related to Inclusionary Projects shall be reviewed by the Director of Inspectional Services.

7.1.4 Monitoring Compliance with AHTC Conditions.

1. Any condition placed on any special permit or variance or site plan approval pursuant to a recommendation of the AHTC or pursuant to this Affordable Housing Ordinance shall be deemed an Affordable Housing Condition.

2. Prior to Issuance of an Occupancy Permit.

a. The AHTC shall oversee and monitor compliance with all Affordable Housing Conditions. In order to facilitate this process, until an occupancy permit has been issued for any Inclusionary Project subject to an Affordable Housing Condition, the recipient of the special permit(s) and/or variance(s) and/or site plan approval containing the Affordable Housing Condition(s) shall periodically, on January 1 and July 1 of each year, report to the AHTC regarding compliance with any and all Affordable Housing Conditions. Such reporting shall continue until an occupancy permit has been issued for the Inclusionary Project.

b. Periodic reports to the AHTC shall be designed to inform the AHTC on the general progress of development on the Inclusionary Project and to specifically inform the AHTC regarding compliance with any Affordable Housing Condition. Based upon these periodic reports, or upon any other information, and prior to the issuance of an occupancy permit for the Inclusionary Project, the AHTC shall report to the granting authority regarding the status of the implementation of such Affordable Housing Condition. The granting authority shall require and enforce compliance with all Affordable Housing Conditions. The granting authority shall consider the reports and recommendations of the AHTC in considering whether or not a developer has complied with conditions placed on an Inclusionary Project. When the granting authority determines that an Inclusionary Project is not in compliance with an Affordable Housing Condition, the granting authority shall have all of the remedies available to it in the case of violation of any other type of condition, including revocation of the variance or special permit or site plan approval.

c. Prior to the issuance of any occupancy permit for any Inclusionary Project subject to an Affordable Housing Condition, the Affordable Housing Trust Committee shall designate, consistent with any Affordable Housing Conditions, which properties or property interests contained in the Inclusionary Project are subject to continuing affordable housing requirements after the issuance of the occupancy permit. Such properties or property interests shall be known as the Designated Property and any entity having any ownership interest in any Designated Property shall be known as a Designated Owner.

d. Prior to the issuance of any occupancy permit for any Inclusionary Project subject

to an Affordable Housing Condition, the AHTC shall notify each Designated Owner that his property is a Designated Property. The Inclusionary Project permit and/or variance and/or site plan approval recipients shall be responsible for providing the AHTC with a list of all Designated Owners, at the AHTC's request. Failure of the AHTC to give such notice, however, shall not effect the validity of any Affordable Housing Condition. Such notice shall notify the Designated Owner of the Affordable Housing Condition and of any obligations under the Affordable Housing Condition and this Affordable Housing Ordinance.

3. After the Issuance of an Occupancy Permit.

a. The AHTC shall oversee and monitor compliance with all Affordable Housing Conditions. In order to facilitate this process, after an occupancy permit has been issued for any Inclusionary Project subject to an Affordable Housing Condition, all Designated Owners of Designated Property contained within the Inclusionary Project shall report annually, on July 1, to the AHTC regarding compliance with the relevant Affordable Housing Condition. This reporting obligation shall attach to the owner of any Designated Property. When Designated Property, or any interest in Designated Property, is transferred, the transferee shall assume the reporting obligations described herein and any other obligations contained in the Affordable Housing Condition.

b. Annual reports to the AHTC shall be designed to inform the AHTC regarding compliance with any Affordable Housing Condition. Based upon these annual reports, or upon any other information, the AHTC may report to the granting authority regarding compliance with the Affordable Housing Condition. The granting authority shall require and enforce compliance with all Affordable Housing Conditions. The granting authority shall consider the reports and recommendations of the AHTC in considering whether or not a developer has complied with conditions placed on an Inclusionary Project. When the granting authority determines that an Inclusionary Project is not in compliance with an Affordable Housing Condition, the granting authority shall have all of the remedies available to it in the case of violation of any other type of condition, including revocation of the variance or special permit or site plan approval.

4. Pursuant to an Affordable Housing Condition, and prior to the issuance of an occupancy permit, the AHTC, with the approval of the Mayor of the City of Quincy, may enter into any agreements with the Designated Owners, or with any other party, that it deems necessary to comply with the Affordable Housing Condition, including Agreements regarding mortgages, deed restrictions, rental limitations, or any other limitation contained in the Affordable Housing Condition.

5. The AHTC may, at any time, remove any property or property interest from the list of Designated Properties, and may terminate the obligations of any Designated Property or Designated Owner under any Affordable Housing Condition, as long as such removal and termination is in the public interest and/or consistent with the purposes of this Affordable Housing Ordinance. Such removal and termination shall be reported to the relevant granting authority and shall be considered incorporated into the relevant Affordable

Housing Condition.

7.1.5 Fractional Dwelling Unit. Where the application of any formula contained in this ordinance results in a fractional dwelling unit, a fraction of one-half of a dwelling unit or more shall be considered as one full dwelling unit. A fraction of less than one-half of a dwelling unit shall not be considered a dwelling unit. Each affordable housing unit shall meet the standards established in Section H of this ordinance.

7.1.6 Construction of Affordable Housing Units. For any construction of affordable housing units under this Affordable Housing Ordinance in which affordable housing units are part of a project containing market rate units, the affordable housing units may be required to be provided coincident with the development of the market rate units, but in no event shall the development of the affordable units be delayed beyond the schedule below. In addition, any land, monies or property (or any other housing units) to be provided under this ordinance shall be provided at least at the rate described below.

Percent of Completed Market Rate Units Affordable Units (or minimum percentage of land, property or monies to be provided)

Up to 30%, None Required

30% + 1 unit 10%

50% + 1 unit 30%

65% + 1 unit 50%

75% + 1 unit 70%

90% + 1 unit 100%

7.1.7 Standards for Construction and Occupancy of Affordable Units. Affordable units shall be generally comparable in size, number of bedrooms, and materials to dwelling units in the neighborhood or in the project in which they are located and shall be consistent with local needs for affordable housing. Preference for affordable housing units shall be given to Quincy residents whenever possible.

7.1.8 Occupancy. Solely for the purposes of this Affordable Housing Ordinance, "occupancy" shall mean the inhabiting and use of a housing unit, including change of tenants or residents in a housing unit.

7.1.9 Affordable Housing Trust Committee. The City shall establish an Affordable Housing Trust Committee (AHTC).

1. The AHTC shall consist of 13 members, as follows, one of whom shall be a permanent member and twelve of whom shall be appointed for staggered terms of five years.

a. One permanent member. The Director of Planning and Community Development or his/her designee shall serve ex-officio as permanent Chair of the AHTC and shall serve ex-officio as the trustee of the Affordable Housing Trust Fund.

b. Members appointed for staggered five-year terms. The Mayor of the City of Quincy shall appoint to the AHTC 12 members for staggered five-year terms.

The Mayor shall appoint:

1. 1 member with a background in banking;
2. 1 member with a background in residential development;
3. 1 member from the executive board of the Quincy and south shore building trades;
4. 2 members from faith-based organizations;
5. 2 members from City of Quincy designated community housing development organizations;
6. 2 community members of the Mayor's choosing; and
7. 3 members consisting of the Quincy City Councilors serving on the City Council Housing Committee.

All non-permanent members of the Affordable Housing Trust Committee shall be considered special municipal employees. At all times at least ten of the twelve non permanent members of the AHTC shall be residents of the City of Quincy. The AHTC may seek technical and administrative assistance from the Department of Planning and Community Development, the Director of Inspectional Services, and the City Solicitor's Office.

2. The AHTC shall have the following authority:

- a. The AHTC shall administer the Affordable Housing Ordinance and shall have all of the power and authority granted to it under this Affordable Housing Ordinance. The AHTC shall review descriptions of Inclusionary Projects and may make recommendations to permit granting and variance granting authorities regarding conditions to be placed on Inclusionary Project permits and variances. Such recommendations shall be made by the AHTC upon the vote of a majority of the AHTC members attending any AHTC meeting at which there is a quorum. The AHTC shall additionally monitor compliance with conditions placed on Inclusionary Projects pursuant to this Affordable Housing Ordinance and/or on recommendation of the AHTC and shall report to the granting authority on compliance with those conditions. Such reports shall be approved by the AHTC by a vote of a majority of the AHTC members attending any AHTC meeting at which there is a quorum.
- b. The AHTC shall seek, through its recommendations to permit granting and variance granting authorities, and through its administration of affordable housing and the Affordable Housing Trust Fund, to provide affordable housing to low and moderate income families. In furtherance of this goal, on July 1 of each year the AHTC shall define "income eligible households" and such definition shall remain in place until July 1 of the following year. The AHTC shall seek, through this Affordable Housing Ordinance, to provide affordable housing to qualifying income eligible households.

7.1.10 Income Eligible Households. When Affordable Housing Conditions are placed on Inclusionary Projects that require occupancy of any housing unit by an income eligible

household, the definition of income eligible household in place at the time of the initial occupancy by each successive household shall be the controlling definition. When such conditions are placed on Inclusionary Projects, the following requirements shall apply:

1. *Rental Inclusionary Projects*: When any Designated Property is used as a rental unit, and when any Affordable Housing Condition requires occupancy of that rental unit by an income eligible household, the affordable housing unit shall be administered in the following way:

a. The AHTC shall annually, on July 1, establish guidelines setting the minimum and maximum rent that may be charged to an income eligible household occupying a Designated Property.

b. As part of the Designated Owner's annual report to the AHTC after the issuance of an occupancy permit, the Designated Owner shall report on the income eligible status of the occupant(s) of the Designated Property. Based on such reports, or on any other information, and consistent with the definition of income eligible household in place at the time of such report, the AHTC shall determine annually whether or not occupant(s) of a Designated Property used as a rental unit continue to qualify as an income eligible household. In cases where the occupant(s) no longer qualify as an income eligible household, the occupant(s) shall be given no less than twelve months to vacate the Designated Property. In cases where the occupant(s) continue to qualify as an income eligible household, the occupant(s) may remain the occupant(s) of the Designated Property, so long as such occupancy is consistent with the Affordable Housing Condition.

c. *For-Sale Inclusionary Projects*: When any Designated Property is used as an owner-occupied unit, and when any Affordable Housing Condition requires occupancy of that For-Sale Inclusionary Project unit by an income eligible household, the affordable housing unit shall be administered in the following way:

d. The AHTC shall annually on July 1 establish guidelines setting the minimum and maximum purchase price that may be charged for any Designated Property that is to be owner occupied.

e. In no case shall the purchase price of such For Sale Designated Property be more than seventy percent (70%) of the fair market value of the designated property. When a Designated Property is sold to an income eligible household, the seller shall report to the AHTC the fair market value of the Designated Property at the time, the purchase price of the Designated Property, and the percentage difference between the fair market value and the purchase price (the "Affordable Housing Percentage").

7.1.11 Subsequent Sales. Once the Designated Property has been purchased by an income eligible household (the "initial purchase"), the income eligible household shall then be free to sell the Designated Property for fair market value (the "second sale"). The income eligible household shall not sell the Designated Property for less than fair market value, however, at the second sale. Upon the second sale of the Designated Property for fair market value, the seller shall pay a percentage, equal to the Affordable Housing Percentage, of the purchase price to the Affordable Housing Trust Fund, unless the fair market value of the Designated Property at the time of the second sale is less than the fair market value of the Designated Property at the time of

the initial purchase, in which case no money shall be due to the Affordable Housing Trust Fund. Once a second sale has taken place on a Designated Property, all Affordable Housing Conditions and all limitations and obligations upon the Designated Property pursuant to this Affordable Housing Ordinance shall terminate.

1. As part of the Designated Owner's annual report to the AHTC after the issuance of an occupancy permit, the Designated Owner shall report on any deed restrictions and mortgages on the Designated Property and on any potential sale of the Designated Property. The Designated Owner shall insure, in the case of a transfer of the Designated Property, through deed restrictions that the requirements of this Affordable Housing Ordinance are adhered to. Once a second sale has taken place on a Designated Property, however, all Affordable Housing Conditions, deed restrictions, and all limitations and obligations upon the Designated Property pursuant to this Affordable Housing Ordinance shall terminate.

2. The AHTC may promulgate, upon a vote of two-thirds of the AHTC members present at any AHTC meeting at which there is a quorum, guidelines, for distribution to developers, regarding the requirements of the Affordable Housing Ordinance and the provision of affordable housing units within the City of Quincy. Although these guidelines will not be binding upon developers, the guidelines will be considered by the AHTC and the granting authority in determining what, if any, conditions should apply to each Inclusionary Project.

3. The AHTC will be deemed to have a quorum whenever seven or more of the thirteen members of the AHTC are present at a meeting.

4. Once the Affordable Housing Trust Fund is established, the AHTC shall administer the Affordable Housing Trust Fund.

5. Upon a vote of two-thirds of the members of the AHTC present at any meeting at which there is a quorum, the AHTC may vote to accept funds, housing units, land, or property conveyed to the City of Quincy pursuant to this Affordable Housing Ordinance. However, in the case of the acceptance or purchase of any housing units, land or property under this Affordable Housing Ordinance such acceptance or purchase shall not become effective until such acceptance or purchase is referred to the City Council and approved consistent with all of the requirements of law.

6. Upon a vote of two-thirds of the members of the AHTC present at any meeting at which there is a quorum, the AHTC may vote to disburse or sell any or all of the funds, housing units, land or property contained within the Affordable Housing Trust Fund. However, in the case of the sale or disbursement of any housing units, land or property under this Affordable Housing Ordinance, such sale or disbursement shall not become effective until such sale or disbursement is referred to the City Council and approved consistent with all of the requirements of law. Any sale or disbursement of funds, housing units, land or property from the Affordable Housing Trust Fund must be, in the reasonable judgment of the AHTC, consistent with and pursuant to the goals contained in

this Affordable Housing Ordinance. The AHTC may vote to disburse or sell any funds, housing units, land or property contained within the Affordable Housing Trust Fund for any other purpose only upon a finding by the AHTC that such a sale or disbursement is in the public interest, a unanimous vote of all of the AHTC board members in favor of such a disbursement or sale, and approval by the Mayor of the City of Quincy. In addition, such sale or disbursement shall not become effective until such sale or disbursement is referred to the City Council and approved consistent with all of the requirements of law.

7. Unless specifically stated otherwise in this Affordable Housing Ordinance, all actions of the AHTC shall be taken upon the vote of a majority of the members of the AHTC present at any meeting at which there is a quorum.

7.1.12 Affordable Housing Trust Fund. The City shall establish an Affordable Housing Trust Fund for the deposit of any funds, housing units, land or property generated by this Affordable Housing Ordinance. Until and unless such an Affordable Housing Trust Fund is established, any funds, housing units, land or property acquired by the City pursuant to this ordinance shall be acquired through and placed into the City's General Fund and the General Fund shall function in place of the Affordable Housing Trust Fund for the purposes of this Affordable Housing Ordinance. Acquisition and distribution of any funds, housing units, land, or property acquired by the City pursuant to this ordinance and placed in the City's General Fund shall be subject to all of the usual requirements of law regarding acquisition and disbursement of funds, housing units, land or property by the City. Funds, housing units, land, and property deposited in the Affordable Housing Trust Fund may be used for any purpose pursuant to and consistent with this Affordable Housing Ordinance, including the following:

1. Creation of affordable housing units through a variety of means including, but not limited to, the provision of favorable financing terms or direct write down of costs for either nonprofits or for-profit developers or to subsidize the purchase of sites, existing structures, or affordable units within a larger development.
2. Multifamily rehabilitation programs.
3. Limited equity cooperatives.
4. Condominium conversions.

7.1.13 Adoption of Prior Acts. Adoption of prior acts of the AHTC. All votes, decisions, and other actions of the Affordable Housing Trust Committee taken prior to February 17, 2004 shall continue in full force and effect unless specifically rejected by the Affordable Housing Trust Committee after that date, by a vote of two thirds of the AHTC members present at any meeting at which there is a quorum.